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FISCAL IMPACT STATEMENT

LS 6107

BILL NUMBER: SB 42

NOTE PREPARED: Feb 13, 2007

BILL AMENDED: Feb 1, 2007

SUBJECT: Federal Sex Offender Bill.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It adds: (1) promoting prostitution as a Class B felony; (2) promotion of human trafficking if the victim is less than 18 years of age; (3) sexual trafficking of a minor; (4) human trafficking if the victim is less than 18 years of age; and (5) possession of child pornography as a first offense; to the list of offenses requiring a person to register as a sex offender.
- B. It specifies that registration as a sex offender is not required for: (1) a parent or guardian who is convicted of kidnapping or confining a child of the parent or a child over whom the guardian has guardianship; or (2) a person convicted of sexual misconduct with a minor as a Class C felony if the person is not more than four years older than the victim and the court finds that the person should not be required to register.
- C. It specifies that, for purposes of the child pornography statute, a person may not possess certain material describing sexual conduct by a child: (1) the person knows is less than 16 years of age; or (2) who appears to be less than 16 years of age.
- D. It removes the lifetime registration requirement for sexual battery as a Class D felony, and imposes the standard ten-year registration requirement.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Added Offenses to Sex Offender Registry-* The Department of Correction could see an increase in information notifications to local law enforcement agencies when a sex offender is released from a Department correctional facility. The Department would likely be able to process additional notifications within their current staff and budget.

Background- Under current law, the Department is required to forward a sex offender's information (if paroled from a Department facility) to all counties in which the sex offender is required to register.

Explanation of State Revenues: *Sex Offenders No Longer Required to Register-* Meeting the requirements of federal law within the sex offender registry statute is one of several conditions required of the state to receive federal Byrne Grants. A recent change in federal law allows for the removal of certain types of sex offenders (as specified in the bill) required to register under state statute. The state received about \$6 M in Byrne Grants during FFY 2005 and about \$3.7 M in FFY 2006.

Explanation of Local Expenditures: (Revised) *Added Offenses to Sex Offender Registry-* Depending on the sex offender's criminal history, an offender may be required to register for a minimum of ten years if this is a first time offense, or life if the offender has a prior sex crime. The bill would add four new offenses and modify one offense that would require an offender to register with the Sex Offender Registry upon release from incarceration. Adding the additional offenses would likely present a minimal increase in administrative expenses to sheriffs with respect to registering new sex offenders. When a sex offender registers with their county sheriff, the sheriff takes the offender's name (including all known aliases), date of birth, social security number, driver's license number, residential address, and work address. Additionally, the sheriff photographs the offender and sends the information, including photograph, to the Sex Offender Registry maintained by the Indiana Sheriffs' Association.

Background on Sex Offender Registry Website- Under current law, the Sex Offender Registry website may be funded from sheriff jail commissary funds, grants from the Indiana Criminal Justice Institute (ICJI), and any other source approved by a county fiscal body. The current Sex Offender Registry website has received funding from the ICJI.

(Revised) *Background on Sex Offenders and New Registry Offenses-* On January 2, 2007, 654 offenders were on parole for a sex crime, 5 offenders were on parole for kidnaping, and 50 offenders were on parole for criminal confinement. As of January 2, 2007, 1,105 offenders sentenced for a sex crime, 107 offenders sentenced for Felony A kidnaping, and 223 offenders committed for Felony B criminal confinement have early release dates between July 1, 2007, and July 1, 2010. A portion of those offenders sentenced for either kidnaping or criminal confinement could have involved victims under the age of 18 and so would be considered sex offenders under current law.

The new offenses that would require registration with the Sex Offender Registry upon release from incarceration are the following.

Offense	IC Code Cite
Promotion of human trafficking for prostitution	IC 35-42-3.5-1(a)(2)(B)
Sexual trafficking of a minor	IC 35-42-3.5-1(b)
Human trafficking for prostitution	IC 35-42-3.5-1(c)(3)
Possession of child pornography as a first time offense*	IC 35-42-4-4(c)
B felony promoting prostitution	IC 35-45-4-4
*Current law requires only repeat offenders to register with the sex offenders registry.	

The offenses under IC 35-42-3.5 (Human Trafficking Act) were established by P.L. 173-2006 and effective July 1, 2006. Between FY 1996 and June 2006, there have been three commitments to a Department correctional facility for B felony promoting prostitution.

From FY 1996 through June 2006, there have been 61 commitments for either child exploitation or possession of child pornography under IC 35-42-4-4. Child exploitation is currently an offense that requires registration with the Sex Offender Registry upon release.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction; Indiana Criminal Justice Institute.

Local Agencies Affected: County sheriffs.

Information Sources: Department of Correction; Indiana Sheriffs' Association; Steven King, Indiana Criminal Justice Institute, 317-234-1653; Indiana Sentencing Policy Study Committee Draft Minutes, September 18, 2006, meeting.

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